

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT DANIEL HOPPER A.K.A.
ANTOLIN ANDREW MARKS,

Plaintiff,

v.

MICHAEL MELENDEZ,

Defendant.

Case No. C05-5680RBL

ORDER TO SHOW CAUSE

This Bivens action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4.

On September 27, 2006, this court issued a report and Recommendation in which the court warned plaintiff that his pleadings must conform to the Local Rules. The court stated:

The defendants motion and combined memorandum is 15 pages long and complies with local rules regarding the length of motions. See, Local Rule 7(e)(3). Plaintiff has filed two documents in opposition to the summary judgment motion. The first document is "Plaintiff's statement of undisputed facts in support of opposition to the Defendant's motion for summary judgment." This document is 10 pages long and complies with the courts local rule limiting a response to a motion for summary judgment to 24 pages. Plaintiff's second filing is a memorandum in opposition to summary judgement.. (Dkt. # 104). This filing does not comply with the local rules for two reasons. First, only one responsive pleading is allowed. Second, the document contains 60 pages of argument while the local rules limit briefing to 24 pages. See, Local Rule 7(e)(3).

The court has considered plaintiff's filings. **The plaintiff is warned that any other**

1 **filing that is over length will not be considered without the prior grant of a motion to**
2 **file an over length brief. Further, filing of any further over length brief without prior**
3 **approval may result in monetary sanctions.**

(Dkt. # 113(emphasis added)).

4 In this same case defendants later moved for summary judgment on the sole remaining claims (Dkt
5 # 141). Plaintiff filed a 24-page pleading using too small a font so that his pleading met the 24-page limit
6 under Local Rule 7 (e)(3). Use of the improper font violated Local Rule 10 (e)(1). Mr. Marks also filed
7 his pleading using the proper font and the pleading is 43-pages long (Dkt # 155).

8 Mr. Marks then filed a “reply showing undisputed facts which is 15 pages of additional briefing,
9 (Dkt. # 158), a supplemental response that was four additional pages,(Dkt. # 159), and another pleading
10 challenging statements made by a witness (Dkt # 165). While these pleadings were not considered by the
11 court, this court has previously warned plaintiff his conduct must conform the Local Civil Rules and
12 plaintiff has failed to heed that warning.

13 Plaintiff is hereby **ORDERED TO SHOW CAUSE** why monetary sanctions should not be
14 imposed for his filing of over length and improper pleadings in this case. Plaintiff has 21 days from the
15 date this order is signed to respond to this order and failure to respond or to adequately show cause will
16 result in monetary sanctions and possibly a Report and Recommendation to dismiss this action. Plaintiff is
17 further warned that repeated behavior of this sort may result in further sanctions and may result in the
18 court considering a vexatious litigant order that would limit future filings.

19 The clerk’s office is directed to send a copy of this order to plaintiff and counsel for defendant and
20 to note the due date for a response on the court’s calendar.

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23 DATED this 29 day of October, 2007.

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25 /S/ J. Kelley Arnold
26 J. Kelley Arnold
27 United States Magistrate Judge
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